

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the administrative law judge upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.23 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.24 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 14.25 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 14.26 Further proceedings.

(a) Ordinarily the determination of an award will be made on the basis of the written record; however, on request of either the applicant or agency counsel, or on his or her own initiative, the administrative law judge assigned to the matter may order further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 14.27 Decision.

The administrative law judge shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 14.28 Review by FAA Decisionmaker.

Either the applicant or the FAA counsel may seek review of the initial decision on the fee application in accordance with subpart G of part 13 of the Federal Aviation Regulations, specifically 14 CFR 13.233. Additionally, the FAA Decisionmaker may decide to review the decision on its own initiative. If neither the applicant nor the agency counsel seeks review within 30 days after the decision is issued, it shall become final. Whether to review a decision is a matter within the discretion of the FAA Decisionmaker. If review is taken, the FAA Decisionmaker

§ 14.29

will issue a final decision on the application or remand the application to the administrative law judge who issued the initial fee award determination for further proceedings.

§ 14.29 Judicial review.

If an applicant is dissatisfied with the determination of fees and other expenses made under this subsection, pursuant 5 U.S.C. 504(c)(2), that applicant may, within thirty (30) days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the FAA adversary adjudication. The court's determination on any appeal heard under this paragraph shall be based solely on the factual record made before the FAA. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.

§ 14.30 Payment of award.

An applicant seeking payment of an award shall submit to the disbursing official of the FAA a copy of the FAA Decisionmaker's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. Applications for award grants in cases involving the FAA shall be sent to: The Office of Accounting and Audit, AAA-1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

PART 15—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Subpart A—General Procedures

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AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 2672, 2675; 49 U.S.C. 106(g), 40113, 44721.

Subpart A—General Procedures

SOURCE: Docket No. 25264, 52 FR 18171, May 13, 1987, unless otherwise noted.

§ 15.1 Scope of regulations.

(a) These regulations apply to claims asserted under the Federal Tort Claims Act, as amended, for money damages against the United States for injury to, or loss of property, or for personal injury or death, caused by the negligent or wrongful act or omission of an employee of the FAA acting within the scope of office or employment. The regulations in this part supplement the Attorney General's regulations in 28 CFR Part 14, as amended. The regulations in 28 CFR Part 14, as amended, and the regulations in this part apply to consideration by the FAA of administrative claims under the Federal Tort Claims Act.

§ 15.3 Administrative claim, when presented; appropriate office.

(a) A claim is deemed to have been presented when the FAA receives, at a place designated in paragraph (b) of this section, an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to, or loss of, property or for personal injury or death, alleged to have occurred by reason of the incident. A claim which should have been presented to the FAA but which was mistakenly filed with another Federal